

		Washington Motorcycle Safety Program		DOL Contract No. TBD	
Contractor Name					
Contract					
Contract start date Upon Execution		Contract end date June 30, 2021		Contract amount	
Purpose (brief description) This Contract establishes the requirements and authorization for the Contractor to conduct motorcycle skills education courses and testing Services at approved locations, with approved Instructors and Testers.					
Contractor					
Contractor name			dba		
Address			Mailing Address (if different)		
Contract Manager	(Area code) Telephone	(Area code) Fax	Email		
Contact #2	(Area code) Telephone	(Area code) Fax	Email		
Department of Licensing (DOL)					
Department administration Contracts and Initiatives Management			Division Program & Services Division		
Contract manager Debbie Dunn			Contact address PO Box 9030 Olympia, WA 98507-9030		
(Area code) Telephone 360-902-0136	(Area code) Fax 360-570-7858	Email ddunn@dol.wa.gov			
WMSP Technical & Program Contact Information					
(Area code) Telephone 800-962-9010	(Area code) Fax 360-570-4914	Email motorcycle@dol.wa.gov			
Attachments (when applicable)					
This Contract consists of the following attachment(s) and all document(s) incorporated herein or by reference: Attachment A, Statement of Work, Training and Testing Services Attachment B, Subsidy Funding Attachment C, Compliance Guidelines					
The terms and conditions of this Contract are an integration and representation of the final, entire and exclusive understanding between the parties superseding, all previous agreements, writings, and communications, oral or otherwise, regarding the subject matter of this Contract. The parties signing below represent that they have read and understand this Contract, and have the authority to execute this Contract. This Contract shall be binding on DOL only upon signature by DOL.					
Contractor Name			Department of Licensing		
Contractor signature	Date	DOL signature	Date		
PRINT Contractor name and title	Employer Identification Number (EIN)	Name and title			
	Uniform Business Identifier (UBI)	Jairus Rice Deputy Assistant Director Central Operations & Resources			

SPECIAL TERMS & CONDITIONS

Upon execution, this Contract is entered into by and between the Washington State, Department of Licensing (hereinafter called "DOL" or "Department"), and the Contractor listed on the previous page (hereinafter called "Contractor"). In consideration of the terms and conditions contained herein, the parties agree as follows:

1. **PURPOSE**

In accordance with Revised Code of Washington (RCW) 46.81A.020 and 46.20.515, it is the purpose of this Contract to allow Contractor to provide motorcycle skills training, and knowledge and/or skills testing Services, as approved and outlined in Attachment A, *Statement of Work, Training and Testing Services*, in order to promote motorcycle safety awareness in Washington. This Contract establishes the requirements and authorization for the Contractor, as an independent contractor, to conduct motorcycle skills education courses and testing Services at approved locations, with approved Instructors and Testers. Additionally, if the Contractor is selected to receive Subsidy Funding, the terms and conditions for such are outlined in Attachment B, *Subsidy Funding*.

2. **DEFINITIONS**

As used throughout this Contract, the following terms shall have the meanings set forth below:

- a) "**Advanced**" means any Intermediate or expert level Two- or Three-wheel motorcycle safety License Endorsement Training course approved by the Director of DOL.
- b) "**Business Days**" means standard business days and hours for the Department of Licensing is Monday through Friday 8:00 a.m. to 5:00 p.m. Weekends and Washington State holidays are not included when counting the number of business days or hours.
- c) "**Contract**" shall mean this Contract, the General Terms and Conditions, the Statements of Work, and any amendments, attachments or exhibits properly executed.
- d) "**Contractor**" means that agency, firm, provider, organization, individual or other entity performing Services under this Contract.
- e) "**Contract Manager**" means the representative identified in the text of this Contract who is delegated the authority to administer this Contract.
- f) "**Department**" or "**DOL**" means the Washington State Department of Licensing, including the Washington Motorcycle Safety Program (WMSP).
- g) "**Evergreen Safety Council**" or "**ESC**" The Evergreen Safety Council is a private, non-profit (501(c)(3)), non-governmental organization, which encourages motorcycle safety awareness and training and provides a curriculum for sidecar/trike education used throughout the United States.
- h) "**Instructor**" is someone trained and tested to national standards and subsequently certified to a DOL level of performance. WMSP certified Instructors are utilized to provide training and License Endorsement Test Services in compliance with curricula design and DOL standards.
- i) "**Intermediate Rider Training Course**" or "**Intermediate**" means a specific Advanced level Two-wheel motorcycle safety License Endorsement Training course approved by the Director of DOL and provided by DOL to contractors.
- j) "**Knowledge Tester**" means a DOL approved test administrator who Contractor appoints to supervise and conduct License Endorsement Tests for knowledge. Approved Testers may be an employee, Proctor, or WMSP-certified Instructor who has been trained to administer a motorcycle Two-wheel and/or Three-wheel knowledge test to DOL standards.
- k) "**License Endorsement Test**" means the DOL approved knowledge and riding skills examinations accepted by licensing offices to add an endorsement or instruction permit.
- l) "**License Endorsement Training**" means a WMSP-certified rider education course that includes License Endorsement Testing as a component of the course's curriculum.
- m) "**Novice**" means a basic or beginning level Two- or Three-wheel motorcycle safety License Endorsement Training course approved by the Director of DOL.

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- n) **"Personal Information"** means information identifiable to any person, including, but not limited to, information that relates to a person's name, health, finances, education, business, use or receipt of governmental services or other activities, addresses, telephone numbers, social security numbers, driver license numbers, other identifying numbers or Protected Health Information, any financial identifiers, and other information that may be exempt from disclosure to the public or other unauthorized persons under either RCW 42.17.310 or other state and federal statutes.
- o) **"Proctor"** means a DOL approved Tester who has been trained to administer and supervise test taker(s) while conducting a License Endorsement Test for knowledge to DOL standards, and has an agreement or contract via a training contractor to provide knowledge testing Services.
- p) **"RCW"** means the Revised Code of Washington. All references in this document to RCW chapters or sections shall include any successors, amended, or replacement statutes.
- q) **"S/TEP"** means the DOL approved Three-wheel Sidecar/Trike Education Program License Endorsement Training curricula provided by Evergreen Safety Council.
- r) **"Services"** means motorcycle skills training, and/or permit and License Endorsement Test Services to the motorcycle riders.
- s) **"Skills Tester"** means a DOL-approved test administrator who is appointed to supervise and conduct License Endorsement Tests for skills. Approved Testers are only WMSP-certified Instructors who have been trained to administer a motorcycle Two-wheel and/or Three-wheel skills test to DOL standards.
- t) **"Subcontractor"** means one not in the employment of the Contractor, who is performing all or part of the Services under this Contract under a separate contract with the Contractor. The terms "Subcontractor" and "Subcontractors" mean Subcontractor(s) in any tier.
- u) **"Subsidized Training"** means any approved Novice or Advanced level motorcycle safety License Endorsement Training offered to Washington State residents, and active military personnel and their dependents, at a cost not to exceed fifty dollars (\$50) for those under the age of eighteen (18), and one-hundred twenty-five dollars (\$125) for those eighteen years or older and military personnel of any age stationed in Washington State.
- v) **"Subsidy Funding" or "Funding"** means funding available through a grant-like process conducted in conjunction with the state's biennial budget cycle, and is used to provide training opportunities at a reduced rate for students who are Washington residents or active military personnel and their dependents.
- w) **"Subsidy Rate"** means the amount paid to Contractor, through the Subsidy Funding grant-like process, for each student receiving Subsidized Training.
- x) **"Tester"** means both Skills Tester and Knowledge Tester.
- y) **"Third Party License Endorsement Test"** means License Endorsement Testing performed not as a part of a training curriculum. Separate and independent of License Endorsement Training.
- z) **"Three-wheel"** means a multi-track motorized vehicle designed to travel with not more than three wheels in contact with the ground, with an engine larger than fifty cubic centimeters (50cc), and/or is capable of propelling the device faster than thirty (30) miles per hour on level ground. **"Two-wheel"** means a single-track motorized vehicle designed to travel with two wheels in contact with the ground, with an engine larger than fifty cubic centimeters (50cc), and/or is capable of propelling the device faster than thirty (30) miles per hour on level ground.
- aa) **"WAC"** means the Washington Administrative Code. All references in this document to WAC chapters or sections shall include any successor, amended, or replacement statutes.
- bb) **"Washington Motorcycle Safety Program" or "WMSP"** means the Washington State Department of Licensing's Washington Motorcycle Safety Program established by chapter 46.81A RCW.

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3. STATEMENT OF WORK

The Contractor shall furnish the necessary personnel, equipment, material and/or Services and otherwise do all things necessary for or incidental to the performance of work set forth in Attachment A, *Statement of Work, Training and Testing Services*.

4. SUBSIDY FUNDING

The Contractor shall furnish the necessary personnel, equipment, material and/or Services and otherwise do all things necessary for or incidental complies with the requirements to receive Subsidy Funding as set forth in Attachment B, *Subsidy Funding*.

If Contractor is selected to receive Subsidy Funding, such Funding will be governed by the guidelines outlined in Attachment B, *Subsidy Funding*.

5. TERMS AND CONDITIONS

All rights and obligations of the parties to this Contract shall be subject to and governed by the following: General Terms and Conditions; Special Terms and Conditions; the Attachment A, *Statement of Work, Training and Testing Services*; Attachment B, *Subsidy Funding*; and Attachment C, *Compliance Guidelines* which are attached and incorporated herein.

6. PERIOD OF PERFORMANCE

Subject to its other provisions, this Contract shall begin on the date of execution and be in effect through June 30, 2021, unless terminated sooner or extended by either party as provided herein. This Contract may be extended for two additional two-year terms at the exclusive option of the DOL and shall be affected by the DOL giving written notice of extension or renewal to Contractor prior to expiration as provided herein. Based on its business needs, DOL may add additional extensions to the period of performance of this Contract.

7. MEMO OF UNDERSTANDING (MOU)

Any communications that the DOL Contract Manager determines to address day-to-day concerns, but do not modify the terms of this Contract, shall be documented by a written, numbered Memo of Understanding (MOU). The DOL Contract Manager has the authority to sign MOUs on behalf of DOL.

8. WMSP POLICIES AND PROCEDURES

Contractor must abide by current Washington Motorcycle Safety Program Policies and Procedures and subsequent updates. Contractors may access the WMSP Policies and Procedures at <http://www.dol.wa.gov>. Contractor will ensure its Subcontractors, employees, Instructors and Testers comply with of these policies and procedures. Contractor's non-compliance with these policies and procedures will be handled using the Attachment C, *Compliance Guidelines*.

9. COST FOR REVIEW, CERTIFICATION, AND AUDIT

In accordance with RCW 46.81A.020, Contractor is required to bear the costs of the review of sites and curriculum, certification and audit process. Upon completion of a review, certification and audit, DOL will invoice Contractor for such costs. The rates for which the Contractor will be charged for these processes are as follows:

TYPE	MINIMUM BASE COSTS	COSTS FOR ADDITIONAL TIME
Classroom & Range Reviews	\$300 first day of review	\$37.50/hour, not to exceed \$300/day
Curriculum Review	\$50	\$24.00/hour for a review that exceed 1.5 hours
Training School Certification	\$150	N/A
DOL Audits	\$300 first day of review	\$37.50/hour, not to exceed \$300/day

DOL will take reasonable efforts to minimize the cost to Contractor. DOL reserves the right to revise these rates after June 30, 2016 and waive costs for ranges and sites that were DOL approved during the previous contracts. Contractor must pay for actual costs associated with third-party audits, if warranted.

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Contractor shall remit payment within thirty (30) days of receipt of the invoice. If Contractor does not make timely payment, DOL may suspend this Contract until full restitution is made. If Contractor receives Subsidy Funding, DOL may withhold amount due from Subsidy Funding payment until the full amount invoiced is recovered. The *Compliance Guidelines* does not apply to this section.

10. AUDITS / PERFORMANCE MANAGEMENT

DOL may conduct audits as provided herein. DOL will have full discretion regarding audits, including selection of a third party audit firm and the selection of auditors, if deemed appropriate. DOL criteria for the selection of the audit firm will be based on, but not limited to, skills, experience, bid price and any other criteria deemed to be in the best interest of DOL. The Contractor further agrees to hold the DOL selected auditing firm harmless for any real or perceived damages to the Contractor's company as a result of audit findings.

For audits performed under this Contract the following applies:

- a) Typically, audits will occur yearly or as otherwise deemed necessary at DOL's sole discretion.
- b) DOL will provide Contractor with a list of auditable items that will be covered at least thirty (30) calendar days prior to the audit. This list may be adjusted by DOL at any time, at DOL's sole discretion.
- c) Contractor, or designee, must be present during an onsite audit. If a designee is present, the Contractor also delegates the authority to sign an audit report on behalf of the Contractor to the designee. DOL reserves the right to concurrently test and/or randomly sample riders tested by the Contractor for endorsement. If the sample rider refuses to be tested, DOL may cancel the endorsement that may have been issued.
- d) Contractor may be required to submit to DOL a corrective action plan that addresses how the Contractor plans to correct the deficiencies or findings that were identified during the audit.

Upon completion of an audit, DOL will send audit findings and a billing invoice to the Contractor within thirty (30) calendar days. The Contractor will have thirty (30) calendar days from receipt to:

- Return signed audit report to DOL;
- Respond to audit finding with a corrective action plan that is satisfactory to DOL; and
- Submit payment to DOL.

If the Contractor does not comply with the corrective action plan or does not make payment in full, DOL reserves the right to suspend or cancel this Contract.

The Contractor will comply with all audit requests from DOL. The Contractor will be in compliance if the scheduling of an appointment by DOL has been completed within thirty (30) days of the written request. Failure to schedule and allow a DOL audit to be done in a reasonable time may result in suspension of the Contractor's authorization to perform Services. Upon completion of a satisfactory audit, the Contractor's authority to provide Services will be reinstated.

Audits are designed to aid DOL in contracting and Subsidy Funding decisions, documenting Contractor's performance, clarifying DOL expectations, and informing Contractor of its performance strengths and weaknesses.

11. COMPLIANCE GUIDELINES

If at any time Contractor is found not to be in compliance with the terms and conditions of this Contract, and DOL determines, in its sole discretion, that corrective action needs to be taken, it will use the Attachment C, *Compliance Guidelines*, to address the deficiency. If the deficiency is not listed in the *Compliance Guidelines*, DOL will use the remedies outlined in the *Compliance Guidelines* as a framework for determining the appropriate action to be taken.

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12. SAFEGUARDING OF PERSONAL INFORMATION

The Contractor shall not use or disclose Personal Information in any manner that would constitute a violation of federal law or applicable provisions of Washington State law. The Contractor agrees to comply with all federal and state laws and regulations, as currently enacted or revised, regarding data security and electronic data interchange of Personal Information.

The Contractor shall protect Personal Information collected, used, or acquired in connection with this Contract, against unauthorized use, disclosure, modification, or loss. The Contractor shall ensure its Company Principals, directors, officers, employees, Subcontractors or agents use it solely for the purposes of accomplishing the Services set forth in this Contract. The Contractor and its Subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make it known to unauthorized persons without the express written consent of DOL or as otherwise authorized by law. The Contractor agrees to implement physical, electronic, and managerial policies, procedures, and safeguards to prevent unauthorized access, use, or disclosure. The Contractor shall make the Personal Information available as directed by DOL. The Contractor shall destroy all Personal Information after this Contract's retention requirements have been met. DOL reserves the rights to monitor, audit, or investigate the use of Personal Information collected, used or acquired by the Contractor through this Contract.

The Contractor shall notify DOL in writing within seventy-two (72) hours of becoming aware of any unauthorized access, use or disclosure. The Contractor agrees to indemnify and hold harmless DOL for any damages related to unauthorized use or disclosure by the Contractor, its officers, directors, and employees, Subcontractors or agents.

Any breach of this clause may result in termination of this Contract.

13. SUBCONTRACTS

With prior written consent of DOL, the Contractor may enter into subcontracts for Instructors to provide training and/or testing Services, and Proctors to provide knowledge testing Services. This clause does not include contracts of employment between the Contractor and personnel assigned to work under this Contract. The Contractor is responsible for ensuring that all terms, conditions, assurances and certifications set forth in this Contract are carried forward to any subcontracts.

14. INSURANCE

Contractor shall, at all times during the term of this Contract, at the Contractor's cost, purchase and maintain insurance of the types and amounts listed below. Failure to purchase and maintain the required insurance may result in the termination of this Contract at DOL's option.

The limits of insurance, which may be increased by DOL, as deemed necessary, shall not be less than as follows:

1. The Contractor shall maintain General Liability Insurance covering products and completed operations, personal injury, and contractual liability, and, commercial umbrella insurance with a limit of not less than \$1,000,000 per each occurrence, and with a general aggregate limit of not less than \$2,000,000. All insurance shall cover liability arising out of premises, operations, independent contractor, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract), and contain separation of insured's (cross liability) condition.
2. For motorcycles loaned or rented to the Contractor, the Contractor shall maintain bodily injury and property damage liability coverage for the operation of a motorcycle as well as physical damage coverage with a limit of not less than \$1,000,000 per occurrence.

Prior to performance of any work under this Contract, and upon each insurance renewal thereafter, the Contractor shall furnish DOL with a Certificate(s) of Insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements specified in this Contract.

The DOL, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, umbrella, excess, and property insurance policies.

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The insurer shall give DOL ten (10) Business Days' advance notice of cancellation.

Contractors must require all Subcontractors to comply fully with applicable insurance requirements stated herein, including at a minimum the General Liability Insurance. Contractor may choose to include Subcontractor(s) on their insurance policies as additional insureds, or require Subcontractors to acquire their own insurance. Failure of Subcontractors to comply with insurance requirements does not limit Contractor's liability or responsibility.

All insurance and surety bonds should be issued by companies admitted to do business within the state of Washington, and have a rating of A-, Class VII or better, in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by DOL's Risk Manager or the Risk Manager for the state of Washington, before this Contract is accepted. If an insurer is not admitted, the insurance policies and procedures for issuing the insurance policies must comply with chapter 48.15 RCW and chapter 284-15 WAC.

Contractor waives all rights against DOL and the state of Washington for recovery of damages to the extent these damages are covered by general liability or umbrella insurance maintained pursuant to this Contract. All insurance provided in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by DOL.

By requiring insurance herein, DOL does not represent that coverage and limits will be adequate to protect Contractor and such coverage and limits shall not limit Contractor's liability under the indemnities and reimbursements granted to DOL in this Contract.

15. INDUSTRIAL INSURANCE COVERAGE

Prior to performing work under this Contract, Contractor shall provide or purchase industrial insurance coverage for its employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51 RCW during the course of this Contract. DOL will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Contractor, or employee of Contractor, which might arise under the industrial insurance laws during the performance of duties and Services under this Contract.

16. TAXES

Contractor must pay all taxes including, but not limited to: Washington Business and Occupation Tax, other taxes based on Contractor's income or gross receipts, or personal property taxes levied or assessed on Contractor's personal property.

Contractor shall complete registration with the Washington State Department of Revenue and be responsible for payment of all taxes due on payments made under this Contract.

All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance, or other expenses for Contractor or Contractor's staff shall be Contractor's sole responsibility.

17. LICENSING STANDARDS

The Contractor shall comply with all applicable local, state, and federal licensing requirements necessary in the performance of this Contract. (See chapter 19.02 RCW for state licensing requirements/definitions.) Contractor shall notify DOL immediately of business closure or change in legal status of business.

18. PUBLICITY

The Contractor agrees to submit to DOL all advertising and publicity matters relating to this Contract, which in DOL's judgment DOL's name can be implied or is specifically mentioned. The Contractor agrees not to publish or use such advertising and publicity matters without prior written consent of DOL.

19. DISPUTES

The parties agree that time is of the essence in resolving disputes. Whenever a bona fide dispute including those related to audit findings, other than termination of this Contract, arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute hearing. The parties shall select a dispute resolution team to resolve the dispute. The team shall consist of a representative appointed by

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the Department, a representative appointed by the Contractor and a third party mutually agreed upon by both parties. The team shall attempt, by majority vote, to resolve the dispute. The parties agree that any dispute resolution process shall occur in Thurston County, Washington, and shall precede any action in a judicial or quasi-judicial tribunal.

Each party shall be responsible for its own expenses and those of their selected representative to the dispute resolution team. Both parties shall share equally in the expenses of the mutually agreed upon third member of the dispute resolution team. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the dispute resolution process.

20. ORDER OF PRECEDENCE

In the event of an inconsistency in this Contract, the inconsistency shall be resolved by giving precedence in the following order:

- a) Applicable federal and state statutes and regulations;
- b) *General Terms and Conditions*;
- c) *Special Terms and Conditions*;
- d) Attachment A, *Statement of Work, Training and Testing Services*;
- e) Attachment B, *Subsidy Funding*;
- f) *WMSP Policies and Procedures Manual*;
- g) Attachment C, *Compliance Guidelines*;
- h) Contractor's *Motorcycle Safety Education and Endorsement Testing Application*;
- i) Contractor's *Application for Subsidy Funding*, if applicable; and
- j) Any other provisions of this Contract incorporated by reference or otherwise.

Terms or conditions that are more restrictive, specific, or particular than those contained in the *General Terms and Conditions* shall not be construed as being inconsistent or in conflict.

21. FUNDING CONTINGENCY

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Contract and prior to normal completion, DOL may terminate Subsidy Funding without advance notice and without penalty to the State of Washington. At the sole discretion of DOL this Contract may be subject to renegotiation under any new funding limitations and/or conditions.

22. TERMINATION FOR CONFLICT OF INTEREST

The Department may, by written notice to the Contractor terminate this Contract if it is found after due notice and examination by the Department that there is a violation of the Ethics in Public Service Act, chapter 42.52 RCW; or any similar statute involving the Contractor in the procurement of, or performance under, this Contract.

23. TERMINATION FOR SIGNIFICANT PROGRAM CHANGES

If significant changes to the WMSP are required due to legislative requirements, changes in DOL business needs, technology changes, or other unforeseen changes or requirements, DOL and Contractor will negotiate in good faith to incorporate such changes into this Contract. If no resolution can be reached, DOL may terminate this Contract under this provision.

24. TERMINATION FOR CAUSE

Any violation of the restrictions, conditions or requirements contained in this Contract constitutes grounds for the Department to terminate this Contract immediately and without notice.

25. TERMINATION FOR CONVENIENCE

Either party has the right to terminate this Contract by giving written notice to the other party at least fifteen (15) Business Days' before the effective date of termination. If this Contract is so terminated, DOL is liable only for payments required under the terms of this Contract for Services rendered prior to termination.

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26. TERMINATION FOR WITHDRAWAL OF AUTHORITY

In the event that the authority of the Department to perform any of its duties under this Contract is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, the Department may terminate this Contract.

27. TERMINATION PROCEDURE

After receipt of a notice of termination, and except as otherwise directed by DOL's Contract Manager, the Contractor shall:

- a) Stop work under this Contract on the date, and to the extent specified, in the notice;
- b) Settle all outstanding liabilities; and
- c) Take such action as may be necessary, or as DOL's Contract Manager may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which DOL has or may acquire an interest.

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GENERAL TERMS AND CONDITIONS

28. ALTERATIONS & AMENDMENTS

This Contract may only be amended by mutual agreement of the parties. Such amendments shall not be binding unless they are in writing and signed by personnel authorized to bind each of the parties.

29. ASSIGNABILITY

The Contractor shall not assign this Contract, nor any claim arising under this Contract without the prior written consent of DOL, which consent shall not be unreasonably withheld.

30. CONFIDENTIALITY

The use or disclosure by any party of any information concerning DOL for any purpose not directly connected with the administration of DOL's or the Contractor's responsibilities with respect to services provided under this Contract is prohibited except by prior written consent of DOL. The Contractor shall maintain as confidential all information concerning the Contractor's study findings and recommendations, as well as the business of DOL, its financial affairs, relations with its clientele and its employees, and any other information which may be specifically classified as confidential by DOL in writing to the Contractor. To the extent consistent with Washington State law, DOL shall maintain all information which the Contractor specifies in writing as confidential. The Contractor shall have an appropriate contract with its employees to this effect.

31. COMPLIANCE WITH APPLICABLE LAW

At all times during the term of this Contract, the Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to, nondiscrimination laws and regulations.

32. DEBARMENT CERTIFICATION

If federal funds are the basis for this contract the Contractor, by signature to this Contract, certifies that the Contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from participating in transactions. The Contractor also agrees to include the above requirement in any and all Subcontracts into which it enters. The Contractor shall immediately notify DOL if, during the term of this Contract, Contractor becomes Debarred. DOL may immediately terminate this Contract by providing Contractor written notice if Contractor becomes Debarred during the term hereof.

33. GOVERNANCE

This Contract shall be construed and interpreted in accordance with the laws of the state of Washington and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

34. INDEPENDENT CAPACITY

The parties intend an independent contractor relationship will be created by this Contract. The Contractor and its employees or agents performing under this contract are not employees or agents of DOL. The Contractor will not hold itself out as, nor claim to be, an officer or employee of DOL or of the state of Washington by reason of this Contract, nor will the Contractor make any claim or right, privilege or benefit which would accrue to such officer or employee under law. Conduct and control of the work will be solely with the Contractor.

35. INDEMNIFICATION

The Contractor shall defend, protect and hold harmless DOL, or any of DOL's agents, and employees of the state, from and against all claims, suits or actions arising from either negligent or intentional acts or omissions of the Contractor, or agents of the Contractor, while performing the terms of this Contract.

36. LEGAL FEES

Unless otherwise specified by law, in the event of litigation or other action brought to enforce Contract terms, each party shall bear its own legal fees and costs.

37. LIMITATION OF SIGNATURE AUTHORITY

Only DOL's Director or designated delegate by writing shall have the expressed, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Contract. Furthermore, any alteration, amendment, modification, or waiver of any clause or condition of this Contract is not effective or binding unless made in writing and signed by DOL's Director or Delegate.

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38. LIMITATION OF STATE'S LIABILITY

The parties agree that neither the Contractor nor the Department shall be liable to each other, regardless of the form of action, for any damages, costs, lost production, or any other loss of any kind for failure of the other party's equipment, hardware or software to perform for any reason, or for the loss of consequential damage which is the result of acts outside the control of either party, such as but not limited to strikes, lockouts, riots, acts of war, epidemics, acts of fire, failure of communications or computer equipment, facilities, or software, power failures, nuclear accidents or other disasters.

39. NONDISCRIMINATION AND CIVIL RIGHTS

During the performance of this Contract, the Contractor shall comply with all federal and state nondiscrimination laws, regulations and policies. In the event of the Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation, or policy this Contract may be rescinded, canceled, or terminated in whole or in part, and the Contractor may be declared ineligible for further contracts with DOL.

40. RECORDS MAINTENANCE

The Contractor shall maintain records relating to this Contract and the performance of the services described herein. The records include, but are not limited to, accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. All records and other material relevant to this Contract shall be retained for six (6) years after expiration or termination of this Contract.

Without agreeing that litigation or claims are legally authorized, if any litigation, claim, or audit is started before the expiration of the six (6) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved including any appeals and remands.

Records and other documents, in any medium, furnished by one party to this contract to the other party, will remain the property of the furnishing party, unless otherwise agreed. The receiving party will not disclose or make available this material to any third parties without first giving notice to the furnishing party and giving it a reasonable opportunity to respond. Each party will utilize reasonable security procedures and protections to assure that records and documents provided by the other party are not erroneously disclosed to third parties.

41. RIGHTS OF INSPECTION

The Contractor shall, at no cost to DOL, provide DOL with reasonable access to Contractor's place of business and Contractor's records, wherever located. This right of inspection shall extend to any authorized agent or official of the State of Washington. These inspection rights are intended to allow DOL to monitor, audit, and evaluate the Contractor's performance and compliance with applicable laws, regulations, and these Contract terms. These inspection rights shall survive for six (6) years following this Contract's termination or expiration.

42. SEVERABILITY

If any term or condition of this Contract is held invalid, the remainder of the Contract remains valid and in full force and effect.

43. SURVIVORSHIP

All transactions executed pursuant to the authority of this Contract shall be bound by all of the terms and conditions set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive.

44. WAIVER

A failure by either party to exercise its rights under this Contract shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any other rights under this Contract unless stated to be such in a writing signed by an authorized representative of the party and attached to the original Contract.

Attachment A
STATEMENT OF WORK
TRAINING & TESTING SERVICES

The Contractor shall furnish the necessary personnel, equipment, material and Services, including those outlined in the *WMSP Policies and Procedures Manual*, and otherwise do all things necessary for the performance of work as set forth herein.

CONTRACTOR RESPONSIBILITIES

1. TRAINING SERVICES

- a) Contractors must provide Two-wheel and/or Three-wheel Novice and Advanced License Endorsement Training to meet market demand in the geographic area served complying with the requirements set forth by DOL, as outlined in the *WMSP Policies and Procedures Manual*.
- b) Training must only be performed using curriculums that have been approved by DOL. Contractor may request the review and approval of an alternate curriculum. Once DOL has approved the curriculum, DOL will provide written notification in the form of an MOU to the Contractor.
- c) For those courses that require Contractor-provided or state-owned motorcycles, Contractor will provide and maintain motorcycles in a manner that meets all standards established by the DOL. Maintenance must be at a level that ensures all motorcycles are safe and mechanically sound for use in a training environment.
- d) Supply all necessary training materials (e.g. course handbooks), excluding course completion cards and testing score sheets.

2. TESTING SERVICES

- a) Contractors must provide Two-wheel and Three-wheel Third Party License Endorsement Testing complying with the requirements set forth by DOL, as outlined in the *WMSP Policies and Procedures Manual*. Contractors entering into this Contract cannot provide only testing services.
- b) Contractor must take precautions to ensure the integrity of the knowledge and skills tests. No student is to be given particular advantage in taking or passing the examinations through student or Tester deception, bribery, or cheating, or through carelessness on the part of the school or Tester. Contractor must report occurrences to the WMSP immediately upon discovery.

3. APPROVED SITES

- a) Contractor must only perform Services at sites approved by DOL. Contractor must not use a proposed site for training or testing Services until DOL provides written notification of its approval.
- b) Contractor may request the addition of sites by submitting the appropriate *Site Approval Form* found in the *WMSP Policies and Procedures Manual*. A fee will be charged in accordance with Section 9, *Cost for Review, Certification, and Audit*, of the *Special Terms and Conditions* of this Contract. Once DOL has approved the request for a new site, DOL will provide written notification in the form of an MOU to Contractor.
- c) Maintain knowledge training and testing sites in the condition as approved throughout the term of this Contract.
- d) Contractors are required to provide DOL written notification of the permanent discontinued use of any site(s) with fifteen (15) days. DOL will acknowledge the change in the form of an MOU to Contractor.

4. BUSINESS REQUIREMENTS

- a) Submit to DOL all required reports as outlined in the *WMSP Policies and Procedures Manual*, and as otherwise requested by DOL.

Attachment A
STATEMENT OF WORK
TRAINING & TESTING SERVICES

- b) Notify DOL's Contract Manager in writing within ten (10) Business Days to any change in the following:
 - i. Contractor's business name;
 - ii. Administrative business office address;
 - iii. Contact information;
 - iv. Instructor or Tester status; or
 - v. Business, training, or testing hours.
- c) Provide and maintain the ability to offer online training and testing registration.
- d) Provide DOL a list of certified Instructors and Testers to be used to perform Services upon Contract execution, renewal, by January 15th of each year, and within five (5) Business Days of the hiring, decertification or dismissal of any Instructor, Contractor will provide notification to DOL. The list must include the name and certification/identification number.

5. INSTRUCTOR REQUIREMENTS

- a) Contractor must only use WMSP-certified Instructors to conduct License Endorsement Testing.
- b) Contractor must comply with all Instructor certification/recertification requirements and ensure qualifications are maintained throughout the certification period.

6. TESTER REQUIREMENTS

- a) Contractor may use WMSP-approved employees and/or Proctors as Knowledge Testers.
- b) Knowledge Tests: Contractor will only use WMSP-certified Instructors or WMSP-approved Knowledge Testers, to administer knowledge tests. Testers must be trained in the administration procedures and data integrity standards.
- c) Skills Tests: Contractor will only use WMSP-certified Instructors to administer skills tests. Instructors must be trained in the administration procedures and data integrity standards.

7. STATE-OWNED MOTORCYCLES

If Contractor is provided state-owned motorcycles by DOL:

- a) May use state-owned motorcycles only for License Endorsement Training courses and/or License Endorsement Testing.
- b) Must store state-owned motorcycles in a secure location when not in use.
- c) With prior, written consent of DOL, Contractor may use parts from inoperable state-owned motorcycle(s) to repair other state-owned motorcycles. Contractor must not use state-owned motorcycles parts for salvage or to aid in the upkeep or maintenance of Contractor-owned or leased motorcycles.
- d) Failure of the Contractor to maintain state-owned motorcycles to required specifications are grounds for DOL to reclaim all state-owned motorcycles from the Contractor. DOL may seek restitution from Contractor for maintenance costs.
- e) Contractor will follow required procedures for the receipt, use, return, or disposal of state-owned motorcycles.

8. DOL RESPONSIBILITIES

The DOL roles and responsibilities are as follows:

- a) Provides direction to Contractor as it pertains to Contract terms and conditions.
- b) Handles performance monitoring reporting, and corrective action if applicable.
- c) Review and approve, as appropriate, invoices for payment.

Attachment A
STATEMENT OF WORK
TRAINING & TESTING SERVICES

- d) Provide technical and programmatic direction to Contractor.
- e) Review, approve, certify, and/or decertify WMSP Instructors, and Testers:
- f) Motorcycle rider education curriculum, and
- g) Motorcycle rider training and testing sites.
- h) Provide and maintain the *WMSP Policies and Procedures Manual*.
- i) Provide License Endorsement Tests, test score sheets, and training course completion cards to comply with required state testing requirements.
- j) Conduct inspections and audits of Contractor records, facilities, and operations.
- k) Notify Contractor of any changes to policies, procedures or requirements that Contractor must adhere to.
- l) Provide Instructor development activities as determined by DOL.
- m) Provide other motorcycle safety related activities as identified by DOL

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Attachment B
SUBSIDY FUNDING

Subsidy Funding is available through the DOL for motorcycle safety training schools to provide motorcycle safety education License Endorsement Training at a reduced cost only to Washington residents or military personnel of any age stationed in Washington State. A Contractor may apply for state Subsidy Funding to provide reduced rate training (Subsidized Training). If the Contractor has applied for and has been awarded Subsidy Funding the following guidelines shall apply. Awards are only executed by an amendment to this Statement of Work, which will be executed by the parties.

1. SUBSIDY FUND AMOUNT AWARDED

For the period of July 1, 2014 through June 30, 2015 the Contractor has been awarded Subsidy Funding as follows:

<If a Contractor applies for and received Funding,
Subsidy Funding award information will be inserted here>

Contractor will not be paid for any Services exceeding the dollar amounts listed above.

2. SUBSIDY COMPENSATION

DOL shall pay the Contractor according to the following Subsidy Rate table:

Subsidy Rate Table

SUBSIDIZED LICENSE ENDORSEMENT TRAINING COURSES		SUBSIDY REIMBURSEMENT RATE PER STUDENT
Two-wheel Novice Course	– Over 18 years of age	\$135.00
Two -wheel Novice Course	– Under 18 years of age	\$210.00
Two -wheel Intermediate Course	– Over 18 years of age	\$70.00
Two -wheel Intermediate Course	– Under 18 years of age	\$145.00
Two -wheel Advanced Course	– Over 18 years of age	\$67.00
Two -wheel Advanced Course	– Under 18 years of age	\$142.00
Three-wheel Novice Course	– Over 18 years of age	\$195.00
Three -wheel Novice Course	– Under 18 years of age	\$270.00
Three -wheel Advanced Course	– Over 18 years of age	\$95.00
Three -wheel Advanced Course	– Under 18 years of age	\$170.00

- a) The Subsidy Rates are not-to-exceed rates. Contractor may submit a lesser amount for reimbursement.
- b) DOL reserves the right to revise Subsidy Rates at the beginning of each Funding period or as needed during a Funding period to address regional need, coverage, and/or market demand.
- c) Subsidy Funding may be used at multiple training sites within a region. However, the Funding may only be spent within the region it is awarded in, unless DOL gives prior written consent.
- d) All payments are subject to the compliance with training and Funding requirements outlined herein, and upon the submission and approval of an invoice.
- e) Reimbursement shall be provided only for students who attend DOL certified License Endorsement Training. No payment shall be made for students who register for the course but fail to attend (“no shows”). Payment shall not be withheld if the student attends but fails to complete the course, or who completes the course unsuccessfully. No reimbursement shall be provided for non-paying, military personnel.

Attachment B
SUBSIDY FUNDING

3. SUBSIDY FUNDING POLICIES AND PROCEDURES

Contractor must abide by the Subsidy Funding Policies and Procedures. Access the Subsidy Funding Policies and Procedures at <http://www.dol.wa.gov>. Contractor's non-compliance of these policies and procedures will be handled using Attachment C, *Compliance Guidelines*.

4. SUBSIDIZED TRAINING – COST TO STUDENTS

Contractor may not charge a student receiving Subsidized Training more than fifty dollars (\$50) for those under the age of eighteen (18), and one-hundred twenty-five dollars (\$125) for those eighteen (18) years or older and military personnel of any age stationed in Washington State. Contractors must not charge subsidized students additional fees, or pass on expenses to the student, for anything required to participate in training.

5. REDISTRIBUTION OF FUNDING

DOL reserves the right, in its sole discretion, to re-distribute Funding based on factors including, but not limited to:

- a) DOL business needs,
- b) The effectiveness and execution of the Contractor's business plan, as proposed in its application for Funding, towards meeting their goals submitted in the Subsidy Funding application process. Contractors will be given an opportunity to improve prior to withdrawal of any Funding.
- c) The quality of the Services provided as measured by performance monitoring, audits and customer feedback; and
- d) Customer demand.

The reduction or increase of Subsidy Funding will become effective upon written notification through a unilateral amendment to Contractor not requiring the Contractor's signature. Invoices submitted for amounts beyond the revised Subsidy Funding amount will not be paid.

6. SUBSIDY INVOICING PROCEDURE

- a) Twice a month, the Contractor shall submit a complete invoice on form A19-1A to include a breakout of total amounts expended by each region with an attached corresponding Course Completion Report(s) to receive payment for Subsidized Training. Courses taught between the:

- 1st and 15th, invoices must be postmarked by the 25th of the same month, and
- 16th and the last day of the month, invoices must be postmarked by the 10th of the following month.

If the 10th or 25th day of the month falls on a weekend or state holiday, or DOL is otherwise closed due to unforeseen circumstances, the due date will be extended until close of business the following Business Day to submit invoices. Any invoice postmarked after the above due dates may not be processed until the following payment period.

- b) Invoices must be submitted to:

Department of Licensing
Washington Motorcycle Safety Program
PO Box 9030
Olympia WA 98507-9030

- c) All invoices are subject to approval by DOL prior to payment. All invoices are to clearly reference the DOL Contract number. The Class Course Completion Report must be complete and accurate. Incomplete invoices maybe delayed in processing.
- d) In order for DOL to close out the end of biennium each biennium, DOL will not honor invoices submitted after July 31st of odd-numbered year.

Attachment B
SUBSIDY FUNDING

7. OVERPAYMENTS TO CONTRACTOR

Contractor shall refund to DOL the full amount of any erroneous payment or overpayment, due to error or fraud, within thirty (30) days of written notice. If Contractor fails to make timely refund, DOL may charge Contractor one percent (1%) per month on the amount due, until paid in full.

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Attachment C
COMPLIANCE GUIDELINES

COMPLIANCE GUIDELINES OVERVIEW

1. DOL reserves the right, in its sole discretion, to determine corrective actions based on the severity and/or totality of the violations, including but not limited to, the combination, severity, degree, and frequency of violations; and the Contractor's progress towards remedying the issues.
2. If there are violations from the *Safety, Procedural, and Contractual Violations* and *Subsidy Funding Violations* tables, violations will be handled in accordance with the respective matrix for each violation.
3. Multiple different violations of the same severity level within the same matrix may each be handled individual of each violation in accordance with the number of times that specific violation has occurred.
4. DOL will assess violation related to Subcontractor or employed Instructor, Tester, and Proctor behavior to determine the level of severity of violation and appropriate corrective action.
5. In the event that a Contractor violates any term or condition, DOL may:
 - a) Issue a written corrective action notice. The Contractor may have a period of time in which to take corrective action. If the Contractor is requested to submit a corrective action plan, DOL will review the plan for its feasibility if the cure is not feasible, DOL will determine the appropriate corrective action.
 - b) Depending on the severity of the violation, DOL may also do one of the following:
 - i. In whole or in part, suspension of Services and/or Subsidy Funding, and/or termination of this Contract.
 - ii. If corrective action including stoppage of Services is warranted, DOL will define the Services that the Contractor must stop performing. This may include but not limited to:
 - License Endorsement Training
 - License Endorsement Testing
 - Usage of specific sites, Instructors, Testers, Proctors, and equipment utilized in the performance of Services.
6. If the breach remains after Contractor has been provided the opportunity to take corrective action, DOL may in whole or in part, suspend Services and/or Subsidy Funding, and/or termination of this Contract.
7. If Contractor disagrees with violations and/or corrective action, Contractor may request a review of the findings and corrective action within ten (10) Business Days. The review will be conducted by a non-WMSP DOL representative within ten (10) Business Days. DOL will notify Contractor if additional time is needed. If Contractor still disputes the findings or corrective action after the additional review, if any, either party may invoke Section 19, *Disputes*, of the *Special Terms and Conditions* of this Contract.

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Attachment C
COMPLIANCE GUIDELINES

SAFETY, PROCEDURAL, and CONTRACTUAL VIOLATIONS

SEVERE

Severe violations include any activity that puts a student in imminent danger, or an illegal or negligent act. Severe violations may be handled as follows:

1st violation – 30 day immediate suspension with passage of re-audit

2nd violation – Contract cancellation

However, depending upon the severity of violation, DOL reserves the right, in its sole discretion and based on the evidence, to proceed immediately to cancellation and possible prosecution.

Severe violations include but are not limited to Contractor:

- under the influence of drugs or alcohol while performing duties or Services
- accepting bribes or favors, selling or otherwise illegally providing course completion cards and/or test score sheets
- negligent disregard for student safety
- physical or mental abuse of a student
- committing identity fraud
- knowing/intentionally using an unapproved WMSP curriculum, range, or Instructor

MODERATE

Moderate violations include breach of DOL or WMSP policy, actions not consistent or in alignment with DOL Contractual obligations, not maintaining professional/ethical conduct, or actions and conditions that are deemed unsafe. Moderate violations may be handled as follows:

1st violation – Stop Service(s), in whole or in part, until approval given by DOL.

2nd violation – Up to 30 day suspension and until approval by DOL

3rd violation – Up to 60 day suspension and until approval by DOL

Subsequent violations – DOL will determine the next course of action, up to and including cancellation

Moderate violations include but are not limited to:

- Instructors under the influence of drugs or alcohol while performing duties or Services
- Instructors accepting bribes or favors, selling or otherwise illegally providing course completion cards and/or test score sheets
- Instructors physical or mental abuse of a student, and/or disregard for student safety
- Wrongly using an unapproved WMSP curriculum, range, or Instructor
- Allowing student operation of training motorcycles while in an unsafe condition per *WMSP Policies and Procedures Manual*
- Conducting training on ranges or skills test sites which have unsafe surface condition or obstacles not accounted for in range certification
- Using helmets that are not US DOT compliant, or helmets with structural damage
- Failing to maintain required insurance
- Failing to secure student Personal Information (e.g. financial information, driver license number, etc.)
- Not properly accounting for or securing completion cards, testing materials
- Using unapproved Proctors or employees for knowledge testing

LOW

Low violations include lower level administrative functions such as accuracy, completeness or timeliness of paperwork and reporting. Low violations may be handled as follows:

1st violation – First warning letter and fix approved by DOL

2nd violation – Second warning letter and fix approved by DOL

3rd violation – Third warning letter and fix approved by DOL

4th violation – Audit (either onsite or administrative)

Subsequent violations – DOL will determine the next course of action, up to and including cancellation

Low violations include but are not limited to:

- Untimely or inaccurate submittal of administrative reports as required by the Contract, and *WMSP Policy and Procedures Manual* (e.g. course completion reports, Tester logs, etc.)
- Inadequate records maintenance
- Lack of or insufficient Contractor policies as defined in the *WMSP Policy and Procedures Manual* (e.g. motorcycle maintenance, retest policy, etc.)

Attachment C
COMPLIANCE GUIDELINES

SUBSIDY FUNDING VIOLATIONS

Subsidy Funding Violations could impact future award of Subsidy Funding.

SEVERE

Severe violations include, but are not limited to illegal actions. Depending upon the severity of offenses, DOL will, in its sole discretion and based on the evidence, determine the level of corrective action, up to and including termination of Subsidy Funding and/or Contract, and possible prosecution.

Severe violations include but are not limited to:

- Intentionally falsifying/misrepresenting invoices

MODERATE

Moderate violations include breach of the Funding Requirements as outlined in the Subsidy Funding Statement of Work. Depending upon the severity and number of violations, and based on DOL's sole discretion, DOL reserves the right to proceed immediately to cancellation. Moderate Funding violations may be handled as follows:

1st violation – Warning letter and fix approved by DOL

2nd violation – Reduction of Funding and/or 30 day Contract suspension and until approval by DOL

3rd violation – Reduction of Funding and/or 90 day Contract suspension and until approval by DOL

Subsequent violation – DOL will determine the next course of action, up to and including cancellation

Moderate violations include but are not limited to:

- Diverting funds from one region to another
- Charging over the specified amount for a student who receives Subsidized Training
- Charging a student who receives Subsidized Training additional fees

LOW

Low Funding violations include breach of Subsidy Funding administrative procedures. Low violations may be handled as follows:

1st violation – First warning letter and fix approved by DOL

2nd violation – Second warning letter and fix approved by DOL

3rd violation – Third warning letter and fix approved by DOL

Subsequent violations – DOL will determine the next course of action, up to and including termination of Subsidy Funding and/or Contract

Low violations include but are not limited to:

- Late, inaccurate or incomplete reporting (e.g. A-19/invoices, Subsidized Training reports, etc.)